

## **SECTION 7.0 ENVIRONMENTAL EFFECTS OF THE FINAL RECOMMENDED PLAN**

### **7.1 INTRODUCTION**

The Final Recommended Plan anticipates pavement modifications to nearly 10.4 miles of the roadway. Alternative 7a consists of raising a 3,000 foot long stretch of the roadway on piles to facilitate conveyance of the flows from the north through the 3,000 foot section of Northeast Shark Slough. Temporary impacts due to construction would consist of noise, some slowing of traffic on the existing road during construction periods and during connection of the new bridge. Removal of fill and pavement on the section of roadway to be replaced would occur after the new section is inaugurated, and could possibly lead to some temporary and very localized increases in water turbidity during fill removal. All appropriate highway safety and sediment-control measures would be incorporated into construction plans and specification to avoid or minimize these effects. During the construction phase of the project, it may be necessary under some conditions to temporarily close one lane of the highway. Under these situations, signage, signals, and other appropriate traffic controls would be utilized to ensure safety.

### **7.2 GEOLOGY AND SOILS**

Various alternatives involve the movement of soils and drilling or making shallow excavations into the limestone bedrock. Although limestone excavation increases the bedrock's surface area-volume ratio and increases the leaching effects of groundwater, none of the action alternatives will involve operations of a large enough scale to significantly affect either the geological conditions or the soils along the Tamiami Trail. There are no prime or unique farmlands in the project area.

### **7.3 WATER MANAGEMENT**

The MWD program, of which this project is a component, would provide for structural modifications to the C&SF Project to enable the restoration of more natural water flows to NESRS in ENP. The action alternatives were designed to facilitate the passage of the required volumes of water from the L-29 Canal to help reestablish the natural distribution of water from WCA-3A and 3B to ENP. Alternative 7a involves the removal of a portion of the existing Tamiami Trail embankment adjacent to facilitate that flow. The retention of the existing culvert system would assist in maintaining sheet flow. The net effects of the project would be beneficial.

### **7.4 WATER QUALITY**

Except for temporary adverse impacts associated with construction, Alternative 7a will have no direct effect on the surface water quality of the L-29 Canal or ENP. Because adverse effects associated with highway runoff are related to the amount of traffic using the highway, and because construction of the project would not affect traffic along the Tamiami Trail, no net adverse effects on the Everglades environment would result. All requirements for controlling turbidity and sediment transport would be followed during construction.

Per FDEP letter of February 18, 2002, stormwater treatment is not required for this project (Appendix F)

Continuity exists in the project area between surface water and ground water. None of the action alternatives would involve interruption of this continuity. None of the alternatives would therefore have any direct effect on ground water.

## **7.5 HAZARDOUS, TOXIC, AND RADIOACTIVE WASTE (HTRW)**

The preliminary assessment indicated that no HTRW or other harmful substances are impacting the project area. However, if contaminants are found during property procurement or project construction, the site would be remediated.

Contaminants, if not detected during the site assessment, may be disturbed or released by increasing the water level and hydroperiod or by removing unnatural structures from the landscape. Experience has shown that the highly permeable ground substrate of that area results in rapid mitigation of the residual contaminants.

## **7.6 ENVIRONMENTAL RESOURCES**

### **7.6.1 Everglades National Park**

The effects of the project would be of a beneficial nature.

The Final Recommended Plan is consistent with the effort to meet the original MWD project goal: . . . *take steps to restore natural hydrologic conditions to the extent practicable in the Everglades National Park*. The recommended plan would promote the hydrologic restoration of ENP by providing the passage of MWD design flows of 4,000 cfs.

### **7.6.2 Shark River Slough East and West Basins**

Alternative 7a would enable the conveyance of MWD design flows to NESRS.

### **7.6.3 Water Conservation Area 3B**

Alternative 7a is located across the L-29 Levee and the L-29 Canal from WCA-3B. The project would have no impacts on WCA-3B.

### **7.6.4 Biological Communities**

The project would have beneficial impacts on biological communities.

Under the Final Recommended Plan, ecological connectivity would be enhanced by the 3,000-foot span of the bridge. Additionally, the recommended plan provides the opportunity for integrating the bridge into a corridor-wide raised facility, as well as be a part of a multi-bridge system with less retrofit than other alternatives. Although there are no specific provisions made to reduce wildlife mortality, the bridge span is anticipated to provide some reduction in mortality of wildlife crossing the Tamiami Trail. The recommended plan provides options for incorporating corridors and barriers to enable wildlife to safely cross the highway and the L-29 Canal.

### 7.6.5 Wetlands

Wetland impacts were evaluated by an interdisciplinary team using Wetland Rapid Assessment Procedure methodology (Section 5.7.5.5). Construction of Alternative 7a would result in the permanent loss of approximately five acres of wetlands, which includes a loss of 3.42 FUs. This functional loss represents the required new fill at each end of the raised section. However, the WRAP analysis ignored the improvement to the wetlands of eastern ENP in Shark Slough, located south of Tamiami Trail and east of the L-67 Levee extension, which was the goal and purpose of the Modified Water Deliveries program. According to the 1992 *Modified Water Deliveries to Everglades National Park* GDM/EIS, the East Everglades area added to the park comprises about 105,000 acres. The modest loss of 3.42 FU, is negligible in comparison to the "lift" in wetlands function, inside ENP, expected as a result of increased flows across the Trail into the Park.

### 7.6.6 Threatened or Endangered Species

Effects on threatened and endangered species were evaluated. Primary and secondary zones were established for the Tamiami West wood stork colony, the Tamiami East wood stork colony, and the Frog City wading bird colony. The USFWS has developed restrictions primarily on highway construction and human activity in these zones for periods ranging from 18 to 48 months. Currently, under Alternative 7a, 2,295 linear feet of U.S. 41 is located in the primary zone and 2,122 linear feet in the secondary zone for the Tamiami West Colony. The only restricted area for the Tamiami East Colony is 3,123 linear feet in the secondary zone. Furthermore, the small colony of wading birds located in Frog City is located in WCA-3B close to the L-29 Levee, approximately one-quarter mile west of the Tigertail Camp. Under Alternative 7a, no restriction would be placed on work within the vicinity of Frog City. Although these restrictions would require phasing of construction, no significant impacts to threatened or endangered species are expected.

A Biological Assessment (BA), prepared 30 May 2002 under the provision of Section 7 of ESA, considered the potential for impacts to the wood stork, snail kite, eastern indigo snake, Florida panther, West Indian manatee, and Cape Sable seaside sparrow. It was concluded that none of these species was likely to be adversely affected by the recommended plan. USFWS provided concurrence by letter, May 22, 2003, that the recommended plan was not likely to adversely affect federally listed species. The BA and related correspondence are included in Appendix D.

## 7.7 CLIMATE

No effect on climate would result from implementation of the recommended plan.

## 7.8 AIR QUALITY

Results of the air quality models, COSCREEN and MOBILE5A, indicate that implementation of the Final Recommended Plan would have little impact on baseline air quality in the project area for the design years analyzed (Section 5.7.7). Although construction associated with the project was not included in this analysis, and although there would likely be minor, short-term air quality impacts in the form of dust from earthwork and other activities, such impacts would be minimized by adherence to all

state and local regulations and to FDOT's Standard Specifications for Road and Bridge Construction.

## **7.9 RECREATION**

No significant impacts to recreation of the area would occur.

There would be no effects on access to boat ramps via S-333 and S-334 other than those associated with normal traffic delays. No effect on bank fishing access to the north bank of the L-29 Canal is anticipated. Although the use of shoulders for temporary lanes would preclude parking on roadsides in the construction area, a method of "rolling construction" would be employed, and impacts from construction would be localized. Therefore, bank fishing from the Tamiami Trail would be restricted in those portions of the roadway where construction takes place during the 24-month construction period. After the completion of construction, bank fishing along the south bank of L-29 could resume fully. Fishing at the culvert outfall locations would remain.

## **7.10 CULTURAL RESOURCES**

A cultural resource assessment survey resulted in the identification of three historic resources:

- Coopertown Airboat Rides and Restaurant (8DA6767)
- Tamiami Trail (8DA6765)
- Tamiami Canal (8DA6766)

Although the Final Recommended Plan would result in bridging a portion of the Tamiami Trail and some reconstruction of the highway, both the highway and its alignment have received modifications and relocations throughout its history.

There would be no encroachment upon either the Coopertown Airboat Rides and Restaurant or the Tamiami Canal (L-29 Canal). Results of the cultural resources survey have been coordinated with the State Historic Preservation Officer. Copies of the correspondence are included in Appendix F.

Mitigation measures to offset effects to significant historic resources would be developed among the Corps, SHPO, FDOT, ENP, and other interested parties. Mitigation for historic resources impacts are typically coordinated with the locally affected parties and SHPO and documented in a Memorandum of Agreement (MOA). Mitigation measures shall include the following:

- Historic Markers could be placed at various areas of significance along the Tamiami Trail. The markers would include narratives describing the history and importance of various sites along the corridor;
- Formal NRHP designation reports for the significant historic resources identified in the project area;
- Large format 4x5 photographs of the affected resources according to Historic American Building Survey (HABS) standards, producing sketch drawings of

the affected buildings' floor plans, and producing copies of architectural plans and drawings of the buildings (if available) according to archival standards. Any archival materials could be kept at public facilities such as the Historical Museum of Southern Florida in Miami and the SHPO in Tallahassee;

- Avoidance of impeding access to Osceola and Tigertail Camps during and after construction.

Should construction activities uncover any archaeological remains, activity in the immediate area of the find will be stopped and the Corps notified. Construction will not continue until the remains are evaluated by a professional archaeologist and the Corps provides a notice to proceed. In the event that human remains are found during either construction or maintenance activities, the provisions of *Chapter 872, Florida Statute (872.05)* and the Native American Graves Protection and Repatriation Act (NAGPRA) will apply. Chapter 872, Florida Statute states:

*When human remains are encountered, all activity that might disturb the remains shall cease and may not resume until authorized by the District Medical Examiner (if the remains are less than 75 years old) or the State Archaeologist (if the remains are more than 75 years).*

If human remains less than 75 years are encountered or if they are involved in a criminal investigation, the District Medical Examiner has jurisdiction. If the remains are determined to be more than 75 years in age, then the State Archaeologist takes jurisdiction in determining appropriate treatment and options for the remains.

### 7.11 AESTHETICS

The removal of exotic vegetation on the southern side of the Tamiami Trail would be necessary for the modifications and reconstruction associated with the recommended plan. Therefore, the project would enhance the aesthetic quality of the area by offering a view of the expanse of the Everglades throughout the length of the project corridor.

### 7.12 NOISE ENVIRONMENT

Peak hour project noise levels for sensitive receptors, which are specific areas within a project area that can be directly affected by project activities, were modeled for the future-without-project alternative and for the recommended plan for the design year 2020 using the TNM noise model (See Section 2.11). No significant differences were found.

- **Flight 592 Memorial.** TNM modeling indicates no noise impacts resulting from the recommended plan. Accordingly, noise abatement measures would not be required.
- **Osceola Camp.** Modeling indicates that the recommended plan, although predicted to exceed FDOT approach criteria, appears to have no impact when compared to future without project conditions. As a result, noise abatement measures would not be required.

- **Tigertail Camp.** Modeling indicates no noise impacts resulting from the recommended plan. Noise abatement measures would not be required.
- **Airboat Association of Florida, Safari Park, Gator Park, and Coopertown Airboats.** Modeling indicates that the recommended plan, although predicted to exceed FDOT approach criteria, appears to have no impact when compared to future without project conditions.
- **Noise generated during construction (temporary impacts).** Construction and vibration noise generated during construction of the project probably would cause temporary impacts from increases in noise levels near sensitive receptors. Noise emissions from construction equipment range generally from 70 dBA for pumps and portable equipment to approximately 95 dBA for tractors, graders, and other heavy equipment.

Avoidance and/or mitigation options will be developed during the project development and design phases and specified in construction plans for implementation by the contractor. In accordance with FDOT's *Standard Specifications for Road and Bridge Construction*, such avoidance and mitigation measures might include, but are not limited to:

1. Maintaining and operating construction equipment in a manner that minimizes noise;
2. Equipping engines with properly functioning mufflers;
3. Limiting noise emissions near sensitive receptors to the greatest extent possible;
4. Installing portable acoustic barriers around stationary construction equipment;
5. Locating stationary equipment as far from sensitive receptors as possible; and
6. When possible, scheduling noisy operations for the middle of the day.

### 7.13 TRANSPORTATION

Implementation of the Final Recommended Plan would neither increase nor decrease traffic on the Tamiami Trail. Reconstruction of the roadway would eliminate undulations and cracks in the highway surface, and improve the drivability of the road.

The existing boat access across the L-29 Canal to the Tigertail Camp would remain. However, highway construction in the area of the boat access area may temporarily eliminate its use. The use of shoulders for temporary lanes would restrict roadside parking; therefore, there would be no area for vehicles to park for accessing the boat access. Access by means of the unimproved road along the L-29 Levee would remain.

#### **7.14 TRIBAL LANDS**

There would be no direct impacts on tribal lands. Access would be provided to both the Tigertail Camp and the Osceola Camp.

#### **7.15 ECONOMICS/SOCIOECONOMICS**

No significant impacts on socioeconomic conditions are anticipated.

The effects by the Final Recommended Plan on other segments of the local economy were evaluated using the RIMS-2 model (Section 5.7.14). Using Miami-Dade County 1995 information, this model gives a construction multiplier of 1.8792 and an earnings multiplier of 0.5136. The construction costs of the recommended plan, \$23,045,733, would generate \$43,307,541 in new business volume, with resultant earnings of \$11,836,288. In addition, the construction costs would generate employment demand of 513 man-years.

Access would be provided to all businesses in the project corridor and to the Airboat Association of Florida both during construction and after project completion. During construction of the highway, while provisions are made to maintain the flow of traffic, there may be infrequent motoring delays due to slower speeds or occasional stops. Because some drivers may wish to avoid construction areas, the number of visitors to businesses during the period of construction may be reduced.

The Osceola Camp is likely to be exposed to short-term construction noise, dust, inconvenience, and possible traffic delays during the period of construction. Because of its distance from the highway, The Tigertail Camp is less likely to be affected by construction noise, but boat access to the camp may be temporarily affected at times during construction. No other effects on the Osceola or Tigertail camps are likely to occur.

#### **7.16 FLIGHT 592 MEMORIAL**

No impacts on the Flight 592 Memorial are expected.

#### **7.17 ENVIRONMENTAL JUSTICE AND IMPACTS ON CHILDREN**

Specific performance measures were developed to indicate disproportionately adverse effects on residents of the two Miccosukee camps located in close proximity to Tamiami Trail. Effects of all proposed alternatives on camp access, noise environment and other aspects of life pre-and post-construction were considered in plan selection. One of the reasons for choosing an alternative aligned to the existing roadway was to avoid decreasing distance between either the Osceola Camp (South side) or the Tigertail Camp (North side), and thereby intruding into residents' privacy. Because there are no adverse environmental effects on minority or low-income communities associated with the Final Recommended Plan, there would be no disproportionate adverse environmental effects on minority or low-income communities. The other purpose of the Environmental Justice Executive Order is to assure opportunities for minority or low income residents to be informed about, and comment on, Federal actions. The Miccosukee Tribe commented on the Draft GRR/EIS and will receive copies of this final

Report as well. Comments of the Tribe, are reproduced in Appendix F Refer also to Section 5.7.17.

Because the Final Recommended Plan does not change the location of the highway, this project is not expected to affect the environmental health or increase safety risks to children in either the Tigertail or Osceola camps over existing conditions.

#### **7.18 CUMULATIVE IMPACTS**

Cumulative impacts are those that result from . . . *the incremental impacts of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or nonfederal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time (40CFR 1508.7).*

This project is one component of the MWD project, which would restore to the extent practicable a portion of the Everglades ecosystem. This effort is also tied into the Central and Southern Florida Flood Control Project Comprehensive Restudy, now referred to as the Comprehensive Everglades Restoration Project (CERP). Table 35 lists several other past, current, and projected efforts that cumulatively affect the Southeastern Florida/Southern Everglades regional environment.

Collectively, all of the above actions are needed to achieve the greatest possible hydrologic restoration of the southern Everglades. Virtually all the above actions were incorporated into the CERP analysis. The CERP analysis was designed to consider the entire South Florida ecosystem and, in doing so, modeled the hydrologic conditions of the area on a broad scale. In the hydrologic modeling analysis, a set of performance measures was applied to ecological targets to determine the restoration benefits of the hydrologic improvements. The CERP analysis also included some fundamental assumptions about the future status of the MWD project and other on-going projects within the ecosystem prior to completing the CERP modeling. It was assumed that the MWD project was in place as designed and providing the expected flows to NESRS. No adverse environmental impacts were identified. Therefore, the Recommended Plan for Tamiami Trail Modification is expected to contribute to a net beneficial cumulative impact.

#### **7.19 IRREVERSIBLE AND IRRETRIEVABLE COMMITMENTS OF RESOURCES**

The Final Recommended Plan requires the irreversible and irretrievable commitment of resources; the expenditure of funding, labor, energy, and materials would be required for the construction of the roadway. Additional wetland acres would be incorporated into the right-of-way of the Tamiami Trail for all action alternatives with the exception of Alternative 5.



**Table 35. Project Effects with Cumulative Affect on Southeastern Florida/  
Southern Everglades Regional Environment**

<b>Project</b>	<b>Responsible Agency</b>
<b>Past Actions</b>	
Modified Water Deliveries to Everglades National Park – Raising Tigertail Camp	USACE
Experimental Program of Water Deliveries to Everglades National Park – Test Iterations 1-5 (Shark River Slough)	USACE
Experimental Program of Water Deliveries to Everglades National Park – Test Iteration 6 (Taylor Slough)	USACE
Experimental Program of Water Deliveries to Everglades National Park – Test Iteration 7 (modified Taylor Slough)	USACE
<b>Current Actions</b>	
Experimental Program of Water Deliveries – Emergency Deviation from Test Iteration 7, Interim Structural and Operational Plan	USACE
Modified Water Deliveries to Everglades National Park – Conveyance between WCA-3A and WCA-3B (Conveyance and Seepage Control Project)	USACE
Modified Water Deliveries to Everglades National Park – 8.5 Square Mile Area	USACE
Modified Water Deliveries to Everglades National Park – Raising Osceola Camp	ENP, USACE
Additional Lands – 8.5 Square Mile Area (Willing Seller Land Acquisition Program)	FDEP
East Coast Buffer/Water Preserve Areas Project	SFWMD
Lower East Coast Regional Water Supply Interim Plan	SFWMD
<b>Future Actions</b>	
Comprehensive Everglades Restoration Plan	USACE/ SFWMD
South Dade (C-111) Project	USACE
Experimental Program of Water Deliveries – Emergency Deviation from Test Iteration 7 – Interim Operational Plan	USACE
Decomartmentalization	USACE/ SFWMD
Lower East Coast Regional Water Supply Plan – South Florida Ecosystem Restoration Plan	SFWMD

Source: U.S. Army Corps of Engineers.

## 7.20 UNAVOIDABLE ADVERSE ENVIRONMENTAL EFFECTS

The Final Recommended Plan would involve a loss of approximately five acres of wetlands, which would be incorporated into highway right-of-way. Wading bird foraging habitat, as well as wetland habitat would be lost. However, sufficient habitat remains available to the north and south of the project area to absorb displaced wildlife. The

overall beneficial effects to the Everglades resulting from the implementations of this project and the remaining MWD actions would greatly outweigh any unavoidable adverse impacts.

#### **7.21 RELATIONSHIP BETWEEN SHORT TERM USES AND MAINTENANCE/ ENHANCEMENT OF LONG-TERM PRODUCTIVITY**

The overall goal of the MWD project, of which this project is a component, is to achieve hydrologic restoration of NESRS and associated wetlands of ENP. Short-term use represented by the action alternatives includes construction resources, dollars, and labor expended during road construction. They also include the short-term, construction-related impacts to traffic flow, businesses, and residents, as discussed in this document. Long-term enhancements in productivity relate to improved quality of the Everglades, specifically hydrologic conditions and biological community structure.

#### **7.22 SECONDARY IMPACTS**

Secondary impacts involve those linked to the project but which occur subsequent to construction. This project is a component of the MWD project, which is intended to facilitate hydrologic restoration of the Everglades by providing additional water to NESRS. For hydrologic restoration to be achieved, this project must be implemented. The intent of the project, therefore, is to facilitate beneficial secondary impacts, which would consist of improvements to the Everglades ecosystem subsequent to construction.

#### **7.23 COMPATIBILITY WITH FEDERAL, STATE, AND LOCAL OBJECTIVES**

This project has been coordinated with agencies of Federal, state and local governments. Agency representatives have participated in workshops, meetings, and other project-related activities, and have provided reviews of this document. There is no known incompatibility with the objectives of Federal, state or local objectives.

#### **7.24 CONFLICTS AND CONTROVERSY**

There is a possibility of some opposition from the residents of the Miccosuckee Tribe, local businessmen, and recreational fishermen over potential loss of privacy, possible impacts on businesses, and loss of some recreational access at the expense of environmental restoration. Some environmental organizations may feel that this project offers insufficient benefits to the Everglades ecosystem. Other areas of controversy or conflict have not been identified.

Recreational interests have requested that the alternatives evaluated include bridging at a height that would allow for the passage of airboats. These features are not required to meet the project purpose of water deliveries to NESRS and are not features of the recommended plan. Currently there is no airboat passage between the north and south side of Tamiami Trail in this area. An airboat passage feature was not evaluated for purposes of this project. Such features may be considered later as betterments, if recommended and funded by the local sponsor, or an airboat passage feature may be considered with a later project.

### **7.25 UNCERTAIN, UNIQUE, OR UNKNOWN RISKS**

The direct site-specific impacts of the Final Recommended Plan can be predicted with a high degree of certainty; therefore, uncertainty is minimized. However, predictions of cumulative and secondary impacts are, to a degree, inherently uncertain. This project is based on the best available scientific and engineering information, and while no adverse impacts are expected, a low probability of risk is always present. The project design is not unique; thus, it should not create unique risks.

### **7.26 PRECEDENT AND PRINCIPLE FOR FUTURE ACTIONS**

This project would not establish a precedent for future actions with significant effects or represent a decision in principle for future considerations.

### **7.27 ENVIRONMENTAL COMMITMENTS**

The Tamiami Trail project is an integral part of the MWD project for hydrologic restoration in ENP. Portions of the MWD project have been implemented, but the benefits from the MWD project cannot be fully realized until the Tamiami Trail project has been completed.

The design of the Final Recommended Plan will be further evaluated, refined, and optimized during subsequent project development phases. The following items list commitments to ensure that the Tamiami Trail project is developed in a manner consistent with the goals of maximizing the hydrologic restoration of NESRS and associated ENP wetlands while avoiding, minimizing, or mitigating adverse effects.

- (a) Implementation of the Recommended Plan shall not adversely harm the restoration levels of ENP's hydrology greater than that simulated by hydrologic modeling as described in the appendices to this document.
- (b) To the maximum extent practicable, operate, maintain, repair, replace, and rehabilitate the Recommended Plan in a manner that will not cause liability to arise under CERCLA.
- (c) That the State of Florida shall be the operator of the project for purposes of CERCLA liability.
- (d) Construction of the raised road portion shall be staged, and a qualified ornithologist stationed during construction, to assure that construction does not disrupt wading bird colonies located in proximity to the construction zone, as recommended in the final Fish and Wildlife Coordination Act Report.

### **7.28 ISSUE OF LOCAL COOPERATION/NON-FEDERAL DUTIES AND RESPONSIBILITIES**

This section describes the local sponsor's responsibilities.

- (a) Convey for fair market value of all lands, easements, and rights-of-way owned by the non-Federal sponsor to the Government for the

Recommended Plan together with all maps, appraisals, and other acquisition materials that may be of use to the Government.

- (b) Hold and save the Government free from all damages arising from the construction, operation, maintenance, repair, replacement, and rehabilitation of the Recommended Plan and any project-related betterment, except for damages due to the fault of or negligence of the Government or the Government's contractors.
- (c) Keep and maintain books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to the Recommended Plan to the extent and in such detail as will properly reflect total project costs.
- (d) Prevent future encroachments on the project lands, easements, and rights-of-way, which might interfere with the proper functioning of the Recommended Plan.
- (e) Comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended by Title IV of the Surface Transportation and Uniform Regulations Assistance Act of 1987 (Public Law 100-17), and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements, and rights-of-way, and performing relocations for construction, operation, and maintenance of the project, and inform all affected persons of applicable benefits, policies, and procedures in connection with said act.
- (f) Comply with all applicable Federal and State laws and regulations, including Section 601 of the Civil Rights Act of 1964, Public Law 88-352, and Department of Defense Directive 5500.11 issued pursuant thereto, as well as Army Regulation 600-7, entitled *Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army*.

## **7.29 COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS**

Coordination and evaluation of required compliance with specific Federal acts, executive orders, and other policies for the various alternatives was achieved, in part, through the coordination of this document with appropriate agencies and the public, beginning on December 7, 2001 and ending on Feb. 4, 2002.. This compliance was established in conjunction with the 1992 GDM/EIS for the MWD project. This section documents compliance with all applicable Federal statutes, executive orders, and policies.

### **7.29.1 National Environmental Policy Act of 1969**

The project complies with the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321, *et seq.* P.L. 91-190. A draft GRR/DSEIS was coordinated with the public and concerned agencies between December 7, 2001 and February 4, 2002. The Environmental Protection Agency determined that it had no objections to the DSEIS. (Appendix F, Correspondence)

#### **7.29.2 Endangered Species Act of 1973**

This project complies with the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531, *et seq.* P.L. 93-205. The Corps has made a commitment to providing ornithological observers during construction, and to stage construction, such that it does not interrupt nesting activities at the two wading bird colonies located in close proximity to Tamiami Trail. Coordination between Federal and state wildlife officials will continue throughout the planning stage of the project.

#### **7.29.3 Fish and Wildlife Coordination Act of 1958**

This project is currently being coordinated with the U.S. Fish and Wildlife Service (USFWS). A Coordination Act Report (CAR) has been received and is included as Appendix I. A separate FWCA Report prepared by the FFWCC is included as Appendix J.

#### **7.29.4 National Historic Preservation Act of 1966 (*Inter Alia*)**

Consultation with the Florida State Historic Preservation Officer (SHPO), has been initiated in accordance with the National Historic Preservation Act, as amended, 16 U.S.C. 470a, *et seq.* P.L. 89-655; the Archeological and Historic Preservation Act, as amended, and Executive Order 11593.

#### **7.29.5 Clean Water Act of 1972**

The project complies with the Clean Water Act, as amended, (Federal Water Pollution Control Act) 33 U.S.C. 1251, *et seq.* P.L. 92-500. A copy of the 404(b)(1) Evaluation is included in Appendix K. A water quality certificate will be sought. However, the State of Florida normally will not issue WQC until advanced plans and specifications for construction have been developed.

#### **7.29.6 Clean Air Act of 1972**

At this stage of planning, this project complies with Section 309 of the Clean Air Act of 1972, as amended, 42 U.S.C. 1857h-7, *et seq.* P.L. 91-604.

#### **7.29.7 Coastal Zone Management Act of 1972**

This project is consistent with the Florida Coastal Zone Management Program (see Appendix L) and complies with the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451, *et seq.* P.L. 92-583.

#### **7.29.8 Farmland Protection Policy Act of 1981**

No prime or unique farmland would be impacted by implementation of this project. Lands to each side of the highway are publicly owned marshlands.. The project is in compliance.

#### **7.29.9 Wild and Scenic River Act of 1968**

No designated Wild and Scenic river reaches would be affected by project related activities. The project is therefore in compliance.

#### **7.29.10 Marine Mammal Protection Act of 1972**

No marine mammals would be affected by this project. Provisions of the Marine Mammal Protection Act of 1968, as amended, 16 U.S.C. 1361, *et seq.* P.L. 92-522, do not apply.

#### **7.29.11 Estuary Protection Act of 1968**

No designated estuary would be affected by project activities. The Estuary Protection Act of 1968, 16 U.S.C. 1221, *et seq.* P.L. 90-454 is not applicable.

#### **7.29.12 Water Project Recreation Act**

This project is in full compliance with the Federal Water Project Recreation Act, as amended, 16 U.S.C 460-1 (12), *et seq.* P.L. 89-72.

#### **7.29.13 Fishery Conservation and Management Act of 1976**

At a meeting at the Southeast Regional Office, National Marine Fishery Service, the Essential Fish Habitat Coordinator advised that an Essential Fish Habitat assessment is not required for this project. No adverse effect on fisheries would result from the proposed action. This project complies fully with the Magnuson-Stevens Fishery Conservation Act, as amended in 1996, 16 U.S.C. 1801, *et seq.* P.L. 94-265.

#### **7.29.14 Lands Act of 1953**

This project is in compliance with the State Sovereignty and Submerged Lands program and the Submerged Lands Act of 1953, 43 U.S.C. 1301, *et seq.*

#### **7.29.15 Barrier Resources Act and Coastal Barrier Improvement Act of 1990**

There are no designated coastal barrier resources in the project area that would be affected by this project. The project is in compliance

#### **7.29.16 Rivers and Harbors Act of 1899**

This project would not obstruct navigable waters of the United States. The action has been subject to the public notice, public hearing, and other evaluations normally conducted for activities subject to the Rivers and Harbors Act of 1899, as amended, 33 U.S.C. 401, *et seq.* The project is in full compliance.

#### **7.29.17 Anadromous Fish Conservation Act**

As defined in the Anadromous Fish Conservation Act, 16 U.S.C. 757a-g, 79 Stat. 1125, as amended by P.L. 89-304, anadromous fish species would not be affected.

**7.29.18 Migratory Bird Treaty Act and Migratory Bird Conservation Act**

No migratory birds would be affected by project activities. The project is in compliance with the Migratory Bird Conservation Act, 16 U.S.C. 715-715d, 715e, 715f-715r; 45 Stat. 1222 and the Migratory Bird Treaties and other international agreements listed in the Endangered Species Act of 1973, as amended, Section 2(a)(4).

**7.29.19 Marine Protection, Research, and Sanctuaries Act**

The Marine Protection, Research and Sanctuaries Act, 33 U.S.C. 1401, *et seq.* P.L. 92-532 (3[33 U.S.C. 1402](f)) does not apply to this project.

**7.29.20 E.O. 11990, Protection of Wetlands**

The wetlands of ENP would be enhanced by this project. This project complies with the goals of this Executive Order.

**7.29.21 E.O. 11988, Flood Plain Management**

This E.O. instructs Federal Agencies to avoid development in flood plains to the maximum extent feasible. The current project is not a "development" but rather a floodplain restoration action. It must be located at the lowest point of Shark Slough to be effective. The project complies with the intent of this E.O.

**7.29.22 E.O. 12898, Environmental Justice**

Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, provides that *each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority or low-income populations.*

This project is being developed in compliance with E.O. 12898, as stated in this chapter and discussed in further detail in chapters 5 and 6.

**7.29.23 E.O. 13045, Protection of Children**

Executive Order 13045, *Protection of Children from Environmental Health Risks and Safety Risks*, requires each Federal agency to *identify and assess environmental risks and safety risks that may disproportionately affect children and ensure that its policies, programs, activities, and standards address disproportionate risks to children that result from environmental health risks or safety risks.*

This project complies with the requirements of E.O. 13045.

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